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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,741	07/22/2003	Isabelle Rollat	05725.0663-01	5256

22852 7590 08/31/2005

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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/623,741

Applicant(s)

ROLLAT ET AL.

Examiner

JYOTHSNA A. VENKAT Ph. D

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 29-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Receipt is acknowledged of amendment filed on 6/13/05. Claims 2-28 have been canceled as per applicant's amendment dated 6/13/05. Claims 1 and 29-33 are pending in the application and the status of the application is as follows:

#### ***Information Disclosure Statement***

The co-pending applications have been considered, but they will not be listed for printing at the time of allowance.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent 5,968,494 ('494).

Hair reshapable is same as hair fixatives. See example 24 for the formulation; see col.8, line 54 for aerosol sprays, which is same as aerosol device. The formulations in example 24 have water and or solvent (ethanol). The polymer and the solvent form the dispersion. See example 28 for the claimed method.

#### ***Response to Arguments***

3. Applicant's arguments filed 6/1/305 have been fully considered but they are not persuasive.

Applicants argue that the present specification, defined the phrase "reshapable hair styling composition" to mean "a hair styling composition providing hair styling that can be restored or modified without new material or heat being applied" at page 3, lines 7-9 and patent '494 neither teaches nor suggests a composition that has a reshapable effect.

In response to the above argument, applicants attention is drawn to example 28 for curl retention. Curl retention is drawn to hair styling where in the curls were retained. This satisfies the specification definition "where in hair styling is restored". Example 28, reads on the claimed method of reshapable hair styling compositions. Therefore the 102 rejection is deemed proper.

4. Claims 1 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent 5,626,840 ('840).

See the abstract for polyurethane dispersion, see col.1, line 42, lines 50-55, see col.2, lines 5-8 for aerosol, see tables 3-6 for the method of use and see claims for polyurethane.

#### ***Response to Arguments***

5. Applicant's arguments filed 6/1/305 have been fully considered but they are not persuasive.

6. Applicants argue that the present claims recite a composition that "provides a reshapable effect" and patent '840 teaches away from a composition having a reshapable effect since the patent discloses that the composition has a "stiffness and resistance to combing at col. 14, lines 56-62 and thus, the composition of '840 provides resistance to restyling or reshaping the hair.

7. In response to the above argument, applicant attention is drawn to curl retention at col.19, lines 45 *et seq.*, and col.20, lines 1-9. Curl retention is drawn to hair styling where in the curls were retained. This satisfies the specification definition "where in hair styling is restored".

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Therefore, curl retention reads on the claimed method of reshapable hair styling compositions.

The 102 rejection is deemed proper

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 29-33 rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent 6,495,119('119).

See the abstract for polyurethane, and aerosol device, see claim 31 for the method of use.

***Response to Arguments***

9. Applicant's arguments filed 6/1/305 have been fully considered but they are not persuasive.

10. Applicants argue that patent '190 discloses a composition for fixing a hairstyle, and states, "fixing of the hairstyle is an important element of styling which can comprise maintaining the shape already given or in shaping the hair and fixing it simultaneously at col.1, lines 18-20 and the patent is silent as to a composition having a reshapable effect, or to reshaping or restyling a hairstyle after it has been fixed.

11. As admitted by applicants that the patent at col.1, lines 18-20 disclose composition for fixing a hairstyle which include "fixing of the hairstyle is an important element of styling which can comprise maintaining the shape already given". This is same as the definition in the specification that "a hair styling composition providing hair styling that can be restored".

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Maintaining the shape using polyurethane is same as hair styling that can be restored using the same polyurethane. Therefore the 102 rejection is deemed proper.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT Ph. D whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30: 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K. PAGE can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JYOTHSNA A VENKAT Ph.D**  
**Primary Examiner**  
**Art Unit 1615**

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